IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO : 21119 of 2005

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Dated: 29th September 2005.

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Between:

M/s Amalgamated Holdings Limited

..... PETITIONER

AND

Commercial Tax Officer, Khairatabad Circle and others

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

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W.P.NO.21119 OF 2005

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ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

This writ petition is filed with the prayer as follows:

> "For the reasons stated in the accompanying affdavit the petitioner herein prays that this Hon'ble Court may be pleased to issue a writ or order or direction particularly one in the nature of Writ of Mandamus granting stay of collection of the balance disputed tax of Rs.62,274/- (out of the total disputed tax of Rs.7,02,476/-) for the assessment year 2001-02 (APGST) arising in pursuance of the stay rejection order of the thrd respondent dated 31-08-2005 passed in CCT's Ref No.LIII(2)/518 pending disposal of the appeal before the Sales Tax Appellate Tribunal or to pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

It may not be necessary for us to go into details of the facts of the case, except that the petitioner, a Limited Company, filed an appeal before the A.P. Sales Tax Appellate Tribunal, questioning the order made by the 1st respondent confirming the assessment order of the 2nd respondent. The merits of the matter are not relevant for the present purpose.

Pursuant to the assessment order, the petitioner is found liable to pay an amount of Rs.7,02,476/- as tax under the A.P.G.S.T. Act. It is asserted in the affidavit filed in support of the petition that the petitioner has already paid an amount of Rs.6,39,789/- and only a balance of Rs.62,274/- is outstanding. The petitioner, therefore, prayed the 3rd respondent not to collect the above mentioned balance amount during the pendency of the appeal. The prayer was rejected. Hence, the present writ petition.

Heard the learned Government Pleader for Commercial Tax.

Having regard to the fact that the petitioner has paid a substantial portion of the tax; almost to a tune of 90 per cent, we find the decision of the 3rd respondent as irrational.

Writ petition, therefore, is allowed as prayed for directing the respondents not to collect the balance of the tax pursuant to the assessment order dated 3rd July 2003, pending a final decision by the Sales Tax Appellate Tribunal, in the appeal preferred by the petitioner against the said assessment order. No costs.

J.Chelameswar, J

M.Venkateswara Reddy, J

Note:

Operative portion by wire at party's cost.

(bo)

mrk

29th September 2005